

pute resolution or other remedy under this chapter.

(Added Pub. L. 106-265, title I, §1002(a), Sept. 19, 2000, 114 Stat. 768.)

§ 9008. Administrative functions

(a) IN GENERAL.—The Office of Personnel Management shall prescribe regulations necessary to carry out this chapter.

(b) ENROLLMENT PERIODS.—The Office shall provide for periodic coordinated enrollment, promotion, and education efforts in consultation with the carriers.

(c) CONSULTATION.—Any regulations necessary to effect the application and operation of this chapter with respect to an eligible individual described in paragraph (3) or (4) of section 9001, or a qualified relative thereof, shall be prescribed by the Office in consultation with the appropriate Secretary.

(d) INFORMED DECISIONMAKING.—The Office shall ensure that each eligible individual applying for long-term care insurance under this chapter is furnished the information necessary to enable that individual to evaluate the advantages and disadvantages of obtaining long-term care insurance under this chapter, including the following:

(1) The principal long-term care benefits and coverage available under this chapter, and how those benefits and coverage compare to the range of long-term care benefits and coverage otherwise generally available.

(2) Representative examples of the cost of long-term care, and the sufficiency of the benefits available under this chapter relative to those costs. The information under this paragraph shall also include—

(A) the projected effect of inflation on the value of those benefits; and

(B) a comparison of the inflation-adjusted value of those benefits to the projected future costs of long-term care.

(3) Any rights individuals under this chapter may have to cancel coverage, and to receive a total or partial refund of premiums. The information under this paragraph shall also include—

(A) the projected number or percentage of individuals likely to fail to maintain their coverage (determined based on lapse rates experienced under similar group long-term care insurance programs and, when available, this chapter); and

(B)(i) a summary description of how and when premiums for long-term care insurance under this chapter may be raised;

(ii) the premium history during the last 10 years for each qualified carrier offering long-term care insurance under this chapter; and

(iii) if cost increases are anticipated, the projected premiums for a typical insured individual at various ages.

(4) The advantages and disadvantages of long-term care insurance generally, relative to other means of accumulating or otherwise acquiring the assets that may be needed to meet the costs of long-term care, such as through tax-qualified retirement programs or other investment vehicles.

(Added Pub. L. 106-265, title I, §1002(a), Sept. 19, 2000, 114 Stat. 768.)

§ 9009. Cost accounting standards

The cost accounting standards issued pursuant to section 26(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)) shall not apply with respect to a long-term care insurance contract under this chapter.

(Added Pub. L. 106-265, title I, §1002(a), Sept. 19, 2000, 114 Stat. 769.)

Subpart H—Access to Criminal History Record Information

CHAPTER 91—ACCESS TO CRIMINAL HISTORY RECORDS FOR NATIONAL SECURITY AND OTHER PURPOSES

Sec.

9101. Access to criminal history records for national security and other purposes.

AMENDMENTS

2000—Pub. L. 106-398, §1 [[div. A], title X, §1076(f)(1)(A), (2)(B)], Oct. 30, 2000, 114 Stat. 1654, 1654A-282, substituted “AND OTHER PURPOSES” for “PURPOSES” in chapter heading and “Access to criminal history records for national security and other purposes” for “Criminal history record information for national security purposes” in item 9101.

§ 9101. Access to criminal history records for national security and other purposes

(a) As used in this section:

(1) The term “criminal justice agency” means (A) any Federal, State, or local court, and (B) any Federal, State, or local agency, or any subunit thereof, which performs the administration of criminal justice pursuant to a statute or Executive order, and which allocates a substantial part of its annual budget to the administration of criminal justice.

(2) The term “criminal history record information” means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, indictments, informations, or other formal criminal charges, and any disposition arising therefrom, sentencing, correction supervision, and release. The term does not include identification information such as fingerprint records to the extent that such information does not indicate involvement of the individual in the criminal justice system. The term does not include those records of a State or locality sealed pursuant to law from access by State and local criminal justice agencies of that State or locality.

(3) The term “classified information” means information or material designated pursuant to the provisions of a statute or Executive order as requiring protection against unauthorized disclosure for reasons of national security.

(4) The term “State” means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States.

(5) The term “local” and “locality” means any local government authority or agency or component thereof within a State having jurisdiction over matters at a county, municipal, or other local government level.

(6) The term “covered agency” means any of the following:

- (A) The Department of Defense.
- (B) The Department of State.
- (C) The Department of Transportation.
- (D) The Office of Personnel Management.
- (E) The Central Intelligence Agency.
- (F) The Federal Bureau of Investigation.

(b)(1) Upon request by the head of a covered agency, criminal justice agencies shall make available criminal history record information regarding individuals under investigation by that covered agency for the purpose of determining eligibility for any of the following:

- (A) Access to classified information.
- (B) Assignment to or retention in sensitive national security duties.
- (C) Acceptance or retention in the armed forces.
- (D) Appointment, retention, or assignment to a position of public trust or a critical or sensitive position while either employed by the Government or performing a Government contract.

(2) Such a request to a State central criminal history record repository shall be accompanied by the fingerprints of the individual who is the subject of the request if required by State law and if the repository uses the fingerprints in an automated fingerprint identification system.

(3) Fees, if any, charged for providing criminal history record information pursuant to this subsection shall not exceed the reasonable cost of providing such information.

(4) This subsection shall apply notwithstanding any other provision of law or regulation of any State or of any locality within a State, or any other law of the United States.

(c) A covered agency shall not obtain criminal history record information pursuant to this section unless it has received written consent from the individual under investigation for the release of such information for the purposes set forth in paragraph (b)(1).

(d) Criminal history record information received under this section shall be disclosed or used only for the purposes set forth in paragraph (b)(1) or for national security or criminal justice purposes authorized by law, and such information shall be made available to the individual who is the subject of such information upon request.

(e)(1) Automated information delivery systems shall be used to provide criminal history record information to a covered agency under subsection (b) whenever available.

(2) Fees, if any, charged for automated access through such systems may not exceed the reasonable cost of providing such access.

(3) The criminal justice agency providing the criminal history record information through such systems may not limit disclosure on the basis that the repository is accessed from outside the State.

(4) Information provided through such systems shall be the full and complete criminal history record.

(5) Criminal justice agencies shall accept and respond to requests for criminal history record information through such systems with printed or photocopied records when requested.

(f) The authority provided under this section with respect to the Department of State may be exercised only so long as the Department of State continues to extend to its employees and applicants for employment, at a minimum, those procedural safeguards provided for as part of the security clearance process that were made available, as of May 1, 1987, pursuant to section 163.4 of volume 3 of the Foreign Affairs Manual.

(Added Pub. L. 99-169, title VIII, § 801(a), Dec. 4, 1985, 99 Stat. 1009; amended Pub. L. 99-569, title IV, § 402(a), Oct. 27, 1986, 100 Stat. 3196; Pub. L. 101-246, title I, § 114, Feb. 16, 1990, 104 Stat. 22; Pub. L. 106-398, § 1 [[div. A], title X, § 1076(a)-(e), (f)(2)(A)], Oct. 30, 2000, 114 Stat. 1654, 1654A-280 to 1654A-282.)

AMENDMENTS

2000—Pub. L. 106-398, § 1 [[div. A], title X, § 1076(f)(2)(A)], substituted “Access to criminal history records for national security and other purposes” for “Criminal history record information for national security purposes” in section catchline.

Subsec. (a)(1). Pub. L. 106-398, § 1 [[div. A], title X, § 1076(e)(1)], substituted “means (A) any Federal, State, or local court, and (B) any Federal, State, or local agency, or any subunit thereof, which” for “includes Federal, State, and local agencies and means: (A) courts, or (B) a Government agency or any subunit thereof which”.

Subsec. (a)(4). Pub. L. 106-398, § 1 [[div. A], title X, § 1076(e)(2)], inserted “the Commonwealth of” before “the Northern Mariana Islands” and struck out “the Trust Territory of the Pacific Islands,” after “American Samoa.”

Subsec. (a)(6). Pub. L. 106-398, § 1 [[div. A], title X, § 1076(a)(1)], added par. (6).

Subsec. (b). Pub. L. 106-398, § 1 [[div. A], title X, § 1076(c)], in first sentence of par. (1), inserted “any of the following:” after “eligibility for” and substituted subpars. (A) to (D) for “(A) access to classified information or (B) assignment to or retention in sensitive national security duties.”, designated second sentence of par. (1) as par. (2), designated third sentence of par. (1) as par. (3) and substituted a period for “, nor shall they in any event exceed those charged to State or local agencies other than criminal justice agencies for such information.”, and redesignated former par. (2) as (4).

Subsec. (b)(1). Pub. L. 106-398, § 1 [[div. A], title X, § 1076(a)(2)], substituted “by the head of a covered agency” for “by the Department of Defense, the Department of State, the Office of Personnel Management, the Central Intelligence Agency, or the Federal Bureau of Investigation” and “that covered agency” for “such department, office, agency, or bureau”.

Subsec. (b)(3). Pub. L. 106-398, § 1 [[div. A], title X, § 1076(b)], struck out par. (3) which related to agreements between Federal departments and agencies and States and localities to indemnify and hold harmless the States and localities from claims arising from the disclosure or use of criminal history record information.

Subsec. (c). Pub. L. 106-398, § 1 [[div. A], title X, § 1076(a)(3)], substituted “A covered agency” for “The Department of Defense, the Department of State, the Office of Personnel Management, the Central Intelligence Agency, or the Federal Bureau of Investigation”.

Subsecs. (e), (f). Pub. L. 106-398, § 1 [[div. A], title X, § 1076(d)], added subsec. (e) and redesignated former subsec. (e) as (f).

1990—Subsecs. (b)(1), (3)(A), (B), (c). Pub. L. 101-246, § 114(1), inserted “the Department of State,” after “Defense,” wherever appearing.

Subsec. (e). Pub. L. 101-246, §114(2), added subsec. (e). 1986—Subsecs. (b)(1), (3), (c). Pub. L. 99-569 inserted references to the Federal Bureau of Investigation and such bureau.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 402(c) of Pub. L. 99-569 provided that: “The amendments made by this section [amending this section and provisions set out as a note under this section] shall become effective with respect to any inquiry which begins after the date of enactment of this Act [Oct. 27, 1986] conducted by the Federal Bureau of Investigation for purposes specified in paragraph (b)(1) of section 9101 of title 5, United States Code.”

EFFECTIVE DATE

Section 802 of Pub. L. 99-169 provided that: “The amendments made by section 801(a) of this Act [enacting this section] shall become effective with respect to any inquiry which begins after the date of enactment of this Act [Dec. 4, 1985] conducted by the Department of Defense, the Office of Personnel Management, or the Central Intelligence Agency, for the purposes specified in paragraph (b)(1) of section 9101 of title 5, United States Code, as added by this Act.”

TERMINATION DATE OF SUBSECTION (b)(3) OF THIS SECTION

Pub. L. 100-453, title I, §101(d), Sept. 29, 1988, 102 Stat. 1904, extended the expiration date provided in section 803(b) of Pub. L. 99-169, formerly set out below, until Dec. 31, 1989.

Section 803(b) of Pub. L. 99-169 provided that subsec. (b)(3) of this section expired three years after Dec. 4, 1985.

REPORT TO CONGRESSIONAL COMMITTEES ON EFFECT OF PROVISIONS FOR INDEMNIFICATION AGREEMENTS

Section 803(a) of Pub. L. 99-169, as amended by Pub. L. 99-569, title IV, §402(b), Oct. 27, 1986, 100 Stat. 3196, directed Department of Justice, within two years after Dec. 4, 1985, and after consultation with Department of Defense, Office of Personnel Management, Central Intelligence Agency, and Federal Bureau of Investigation, to report to appropriate committees of Congress concerning the effect of 5 U.S.C. 9101(b)(3), as added by this Act, including the effect of the absence of indemnification agreements upon States and localities not eligible under 5 U.S.C. 9101(b)(3) for such agreements.

Subpart I—Miscellaneous

CHAPTER 95—PERSONNEL FLEXIBILITIES RELATING TO THE INTERNAL REVENUE SERVICE

Sec.	
9501.	Internal Revenue Service personnel flexibilities.
9502.	Pay authority for critical positions.
9503.	Streamlined critical pay authority.
9504.	Recruitment, retention, relocation incentives, and relocation expenses.
9505.	Performance awards for senior executives.
9506.	Limited appointments to career reserved Senior Executive Service positions.
9507.	Streamlined demonstration project authority.
9508.	General workforce performance management system.
9509.	General workforce classification and pay.
9510.	General workforce staffing.

§ 9501. Internal Revenue Service personnel flexibilities

(a) Any flexibilities provided by sections 9502 through 9510 of this chapter shall be exercised in a manner consistent with—

(1) chapter 23 (relating to merit system principles and prohibited personnel practices);

(2) provisions relating to preference eligibles;

(3) except as otherwise specifically provided, section 5307 (relating to the aggregate limitation on pay);

(4) except as otherwise specifically provided, chapter 71 (relating to labor-management relations); and

(5) subject to subsections (b) and (c) of section 1104, as though such authorities were delegated to the Secretary of the Treasury under section 1104(a)(2).

(b) The Secretary of the Treasury shall provide the Office of Personnel Management with any information that Office requires in carrying out its responsibilities under this section.

(c) Employees within a unit to which a labor organization is accorded exclusive recognition under chapter 71 shall not be subject to any flexibility provided by sections 9507 through 9510 of this chapter unless the exclusive representative and the Internal Revenue Service have entered into a written agreement which specifically provides for the exercise of that flexibility. Such written agreement may be imposed by the Federal Services Impasses Panel under section 7119.

(Added Pub. L. 105-206, title I, §1201(a), July 22, 1998, 112 Stat. 712.)

§ 9502. Pay authority for critical positions

(a) When the Secretary of the Treasury seeks a grant of authority under section 5377 for critical pay for 1 or more positions at the Internal Revenue Service, the Office of Personnel Management may fix the rate of basic pay, notwithstanding sections 5377(d)(2) and 5307, at any rate up to the salary set in accordance with section 104 of title 3.

(b) Notwithstanding section 5307, no allowance, differential, bonus, award, or similar cash payment may be paid to any employee receiving critical pay at a rate fixed under subsection (a), in any calendar year if, or to the extent that, the employee's total annual compensation will exceed the maximum amount of total annual compensation payable at the salary set in accordance with section 104 of title 3.

(Added Pub. L. 105-206, title I, §1201(a), July 22, 1998, 112 Stat. 712; amended Pub. L. 110-161, div. D, title I, §107, Dec. 26, 2007, 121 Stat. 1977.)

AMENDMENTS

2007—Subsec. (a). Pub. L. 110-161 substituted “Office of Personnel Management” for “Office of Management and Budget”.

§ 9503. Streamlined critical pay authority

(a) Notwithstanding section 9502, and without regard to the provisions of this title governing appointments in the competitive service or the Senior Executive Service and chapters 51 and 53 (relating to classification and pay rates), the Secretary of the Treasury may, before July 23, 2013, establish, fix the compensation of, and appoint individuals to, designated critical administrative, technical, and professional positions